

REMARKS – General

By the above Amendment, Applicants have rewritten all claims to define the invention more particularly and distinctly so as to define the invention patentably over the prior art.

Drawing Objections

The drawing objections are noted and will be corrected after allowance. Figure 4 will be canceled and Figures 5 and 6 will be renumbered accordingly.

The Rejection of Claims 19-46 under 35 USC § 112 is Overcome.

Claims 19-46 were objected to as containing subject matter which was not described in the Specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 19 and 33 which previously claimed that the vertical support members support the display item “without being held in place by pressure or friction,” have been rewritten as new claims 47 and 61 which claim that the vertical support members support the display item “with minimal pressure or friction,” and Claims 27 and 42 which previously claimed a tri-spoked or fluted manual adjusting knob have been rewritten as new claims 55 and 70 which claim only a tri-spoked manual adjusting knob.

Accordingly, applicants submit that the rewritten claims now comply with 35 USC § 112, and therefore request withdrawal of this objection.

The rejection of Claims 19-46 under 35 USC 112, Second Paragraph is Overcome.

Claims 19-46 were rejected as being indefinite for failing to point out and distinctly claim the subject matter which the applicant regards as the invention. Six specific objections were cited in the Office Action.

Regarding the objection to the subcombination of the support stand and the ground, applicants submit that upon careful reexamination of the claims that it will become apparent that while the display stand is designed to work on the ground, that nowhere in the claims is it stated that the

ground is required for the proper functionality of the invention. Accordingly, applicants submit that claims 19-46 now rewritten as new claims 47-74 comply with 35 USC 112, Second Paragraph, and therefore request withdrawal of this objection.

Regarding the objection to the subcombination of the support stand and the display item, claims 19, 28, 33, and 42 have been rewritten as new claims 47, 56, 61 and 70, which no longer recite the display item in a functional statement. Accordingly, applicants submit that the rewritten claims now comply with 35 USC 112, Second Paragraph, and therefore request withdrawal of this objection.

Regarding the objection to the term “fluted” manual adjusting knob, Claims 27 and 42 have been rewritten as new claims 55 and 70, which no longer use the term “fluted” to refer to the manual adjusting knob. Accordingly, applicants submit that the rewritten claims now comply with 35 USC 112, Second Paragraph, and therefore request withdrawal of this objection.

Regarding the objection to the limitation “their upright portions” recited in Claims 19 and 33, said claims have been rewritten to provide sufficient antecedent basis as new claims 47 and 61, which recite “said upright portion of each said vertical support member.” Accordingly, applicants submit that the rewritten claims now comply with 35 USC 112, Second Paragraph, and therefore request withdrawal of this objection.

Regarding the objection to the limitation “the flat bottom portion of that L-shape” recited in Claims 24 and 38, said claims have been rewritten to provide sufficient antecedent basis as new claims 52 and 66, which recite “said flat and continuous bottom portion of said L-shape.” Accordingly, applicants submit that the rewritten claims now comply with 35 USC 112, Second Paragraph, and therefore request withdrawal of this objection.

Regarding the objections to the limitation “additional non-fixed L-shaped vertical support members” recited in Claims 30 and 44, said claims have been rewritten to provide sufficient antecedent basis as new claims 58 and 72, which recite “said plurality of vertical support

members is comprised of one or more said vertical support members which are permanently fixed to said continuous ground engaging flat base, and one or more said slidably adjustable vertical support members which may be temporarily fixed.” Accordingly, applicants submit that the rewritten claims now comply with 35 USC 112, Second Paragraph, and therefore request withdrawal of this objection.

The Rejections of Claims 19-27, and 29-32 on Smith is Overcome

The last OA rejected independent Claims 19-27 and 29-32 on Smith. Claims 19-27 and 29-32 have been rewritten as new claims 47-55 and 57-60 to define patentably over this reference.

Although the rejection cites 35 U.S.C. § 103, the Examiner begins by asserting that Smith meets virtually all the claims of the present invention (which would fall under 35 USC § 102), and then follows by asserting that the remaining claims could be met by making modifications to the prior art, which would have been obvious to a person having ordinary skill in the art to which said subject matter pertains 35 U.S.C. § 103 (a).

Applicants will therefore address Smith first on the basis of 35 USC § 102, on a claim-by-claim basis, followed by a rebuttal of the two specific assertions of obviousness on the basis of 35 U.S.C. § 103 (a), and then Applicants will concluding with a general rebuttal of all assertions of obviousness of the present invention based on Smith under 35 U.S.C. § 103 (a).

The Objection to Claim 19 on Smith is Overcome

Claim 19 now rewritten as new claim 47 recites:

- a. a **continuous** ground engaging flat base of predetermined shape and thickness,
- b. a plurality of slotted vertical support members each having an upright portion and a base portion, said support members communicating with said continuous ground-engaging flat base, with **said upright portion of each said vertical support member having a flat planar surface**, and **said upright portion being of sufficient height to hold a flat plane display item in a vertical position without tipping over**,

- c. a means of slidably connecting said vertical support members to said ground engaging flat base,
- d. a means of slidably adjusting the location of said vertical support members on said base, relative to one another, such that the distance between said vertical support members is infinitely variable from complete closure to the maximum possible distance, **with said upright portion of each said vertical support member remaining perpendicular to said base at any point of adjustment** and,
- e. a means of affixing said vertical support members in a given location on said ground-engaging flat base, without the use of tools, **without depending on the weight of the display item being held, without applying compressive force against the item being held, and without removing said ground engaging flat base from the ground**, such that a desired aperture is thereby created between said vertical support members, whereby a flat plane display item of varying thickness and weight can be placed into said aperture created between said vertical support members, such that said display item is **held perpendicularly to said ground-engaging flat base, and such that said display item is held with minimal pressure or friction to prevent marring or damage to said display item**.

This language distinguishes over Smith under section 102 because:

- a. Smith does not show a continuous ground engaging flat base
- b. Smith does not show slotted vertical support members with an upright portion and a base portion of sufficient height to hold a flat planar display item in a vertical position without tipping over
- c. Smith does not show a means of **slidably** connecting vertical support members to a continuous ground engaging flat base
- d. Smith does not show a means of **slidably** adjusting said vertical support members on said base relative to one another such that the distance between said vertical support members is infinitely variable from complete closure to the maximum distance, nor does Smith show support members with their upright portions remaining perpendicular to said base at any point of adjustment
- e. Smith does not show a means of affixing vertical support members in a given

location on said base without the use of tools, nor does Smith show a way of affixing vertical support members without depending on the weight of the display item being held, *nor does Smith show a way of holding a flat plane display item without applying compressive force against the item being held*, nor does Smith show a way of holding flat plane display items of varying thickness and weight, nor does Smith show a means of holding a display item with minimal pressure or friction.

These distinctions are submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: the continuous ground engaging base provides stability, the vertical support members with a base and upright portion of sufficient height to prevent the item from tipping over will prevent damage to the display item as well as passers-by during the adjustment process and when in use, the slidability of the vertical support members on the base makes setup easy and quick, the ability to infinitely adjust the distance between the vertical support members allows display items of widely varying thicknesses to be held, the continuously perpendicular orientation of the upright portion of the vertical supports ensures that the display item will remain vertically stable and undamaged during the adjustment process, the ability to fix the vertical support members without tools allows a single person to use one hand to stabilize the display item and the other hand to adjust and tighten the stand, the ability to fix the vertical support members in position without depending on the weight of the item or applying compressive force to the item allows commonly used lightweight display and sign materials such as Fomecore® board (foam laminated with paper), Gatorboard® (foam laminated with wood fiber), and thin plywood to be used, the ability to hold an item in place with minimal friction allows said display and sign materials to be used without being damaged.

The Objection to Claim 20 on Smith is Overcome.

Claim 20 now rewritten as new claim 48 shows a continuous ground engaging flat base having an elongated rectangular shape. This language distinguishes over Smith under Section 102 because Smith does not show a continuous base.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: the continuous base of the present invention allows tall, flat display items to be placed on the ground or a floor surface with greater stability than a hinged, spring-loaded base, and the elongated rectangular shape adds stability to the device when holding tall items.

The Objection to Claim 21 on Smith is Overcome.

Claim 21 now rewritten as new claim 49 shows a continuous ground engaging flat base made of metal. This language distinguishes over Smith under Section 102 because Smith does not show a continuous base.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: the continuous base of the present invention allows flat display items to be placed on the ground or a floor surface, and a metal base adds to the stability of the device by virtue of its weight.

The Objection to Claim 22 on Smith is Overcome.

Claim 22 now rewritten as new claim 50 shows a continuous ground-engaging flat base made of metal and coated with a a rust-resistant plating material. This language distinguishes over Smith under Section 102, because Smith does not show a continuous base, and does not show a base coated with rust-resistant material.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: the continuous ground engaging base coated with rust-resistant material allows flat display items to be placed on the ground for outdoor occasions, without concern about rust damage to the device due to dampness of the ground or inclement weather.

The Objection to Claim 23 on Smith is Overcome.

Claim 23 now rewritten as new claim 51 shows slotted vertical support members having an L-shape, wherein said bottom portion of each said slotted vertical support member is flat and continuous. This language distinguishes over Smith under Section 102 because Smith does

not show vertical support members having an L-shape, and Smith does not show slotted vertical support members with a flat and continuous bottom portion.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: The L-shape provides an upright of the proper height to stabilize a tall display item, and the flat and continuous bottom portion provides a means of easily sliding the vertical support member across the base while adjusting or loosening the stand.

The Objection to Claim 24 on Smith is Overcome.

Claim 24 now rewritten as new claim 52 shows slotted vertical support members having an L-shape and communicating with said continuous ground engaging flat base along said flat and continuous bottom portion of said L-shape. This language distinguishes over Smith under Section 102 because :

- A. Smith does not show vertical support members having an L-shape
- B. Smith does not show slotted vertical support members with a flat and continuous bottom portion
- C. Smith does not show a continuous ground engaging flat base.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: The L-shape provides an upright of the proper height to stabilize a tall display item, and the flat and continuous bottom portion provides a means of easily sliding the vertical support member while adjusting or loosening the stand, and the continuous ground engaging flat base provides the stability required to support tall display items.

The Objection to Claim 25 on Smith is Overcome.

Claim 25 now rewritten as new claim 53 shows slotted vertical support members having an L-shape, having a guide slot in said flat and continuous bottom portion of said L-shape. This language distinguishes over Smith under Section 102 because Smith does not show vertical support members having an L-shape, nor does Smith show a flat and continuous bottom portion of that L-shape.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: The L-shape provides an upright of the proper height to stabilize a tall display item, and the flat and continuous bottom portion provides a means of easily sliding the vertical support member while adjusting or loosening the stand, and the guide slot allows the vertical support member to slide freely during the adjustment process.

The Objection to Claim 26 on Smith is Overcome.

Claim 26 now rewritten as new claim 54 shows a continuous ground engaging flat base having one or more fixed guide pins, such that said guide slot in flat and continuous bottom portion of said L-shaped vertical support member may be placed over said fixed guide pins, enabling said L-shaped vertical support member to slide across a predetermined area on said continuous ground engaging flat base. This language distinguishes over Smith under Section 102 because :

Smith does not show a continuous ground engaging flat base

Smith does not show guide pins

Smith does not show a guide slot which can be placed over one or more guide pins

Smith does not show an L-shaped vertical support member with a flat and continuous bottom portion.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: the continuous ground engaging flat base provides the stability required to support tall display items, the guide pins hold the vertical support members in position during adjustment of the stand aperture from a fully closed to fully open position, the guide slot allows the stand to be continuously adjusted until it is in the correct position, the L-shape provides an upright of the proper height to stabilize a tall display item, and the flat and continuous bottom portion provides a means of easily sliding the vertical support member while adjusting or loosening the stand

The Objection to Claim 27 on Smith is Overcome.

Claim 27 now rewritten as new claim 55 shows a support stand wherein at least one of said fixed guide pins is threaded. This language distinguishes over Smith under Section 102 because Smith does not show fixed guide pins.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: the fixed guide pins hold the vertical support members in position and alignment during adjustment of the stand aperture from a fully closed to fully open position

The Objection to Claim 28 on Smith is Overcome.

Claim 28 now rewritten as new claim 56 shows a support stand wherein each said threaded fixed guide pin is threadedly mated with an oppositely threaded tri-spoked manual adjusting knob of sufficient diameter to be easily hand-tightened down on said fixed threaded guide pin compressing said flat and continuous bottom portion of said L-shaped vertical support member against said continuous ground engaging flat base, such that said L-shaped vertical support member will be fixed in a specific location on said continuous ground engaging flat base without the use of tools, and without inverting the support stand. This language distinguishes over Smith under Section 102 because

Smith does not show one or more threaded fixed guide pins

Smith does not show an oppositely threaded tri-spoked manual adjusting knob

Smith does not show an L-shaped vertical support member with a flat and continuous bottom portion

Smith does not show a continuous ground engaging flat base

Smith does not show a means by which an L-shaped vertical support member can be fixed in a specific location on a continuous ground engaging flat base without the use of tools

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention:

The threaded fixed guide pins provide an easy way of attaching a fastener to the stand. The oppositely threaded tri-spoked manual adjusting knob provides sufficient leverage to allow a

person to easily hand-tighten or loosen the vertical support member to the base. The L-shaped vertical support member with a flat and continuous bottom portion provides a stable support for tall display items, and a flat surface for easy sliding against the base during adjustment. The continuous ground engaging flat base provides a stable platform for the stand. The ability to fix an L-shaped vertical support member in a specific location on a continuous ground engaging flat base without the use of tools, allows speed and convenience when using the stand.

The Objection to Claim 29 on Smith is Overcome.

Claim 29 now rewritten as new claim 57 shows a support stand wherein one or more of said plurality of vertical support members are permanently fixed in a predetermined location on said continuous ground-engaging flat base, such that said upright portion of each said fixed vertical support member remains perpendicular to said continuous base. This language distinguishes over Smith under Section 102 because : Smith does not show a continuous ground engaging base, and Smith does not show a means by which a vertical support member remains perpendicular to said base.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: The continuous ground engaging base provides a stable platform for the stand. By remaining perpendicular to the base during adjustment and use, the vertical support members provide continuous stability to the display item being held, and damage to the display item due to any type of clamping or wedging action is avoided.

The Objection to Claim 30 on Smith is Overcome.

Claim 30 now rewritten as new claim 58 shows a support stand wherein a plurality of vertical support members is comprised of one or more said vertical support members which are permanently fixed to said continuous ground engaging flat base, and one or more said slidably adjustable vertical support members which may be temporarily fixed in a location on said continuous ground engaging flat base selected by the user. This language distinguishes over Smith under Section 102 because : Smith does not show a continuous

ground engaging flat base.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: The continuous ground engaging flat base provides a stable platform for the stand.

The Objection to Claim 31 on Smith is Overcome.

Claim 31, now rewritten as new claim 59 shows fixed and non-fixed L-shaped vertical support members made of metal. This language distinguishes over Smith under Section 102 because Smith does not show L-shaped vertical support members.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: The L-shaped vertical support member provides a stable support for tall display items.

The Objection to Claim 32 on Smith is Overcome.

Claim 32, now rewritten as new claim 60 shows fixed and non-fixed L-shaped vertical support members made of metal which are coated with a rust resistant plating material. This language distinguishes over Smith under Section 102 because :Smith does not show L-shaped vertical support members, and Smith does not show vertical support members coated with a rust-resistant plating material.

This distinction is submitted to be of patentable merit under Section 103 because of the new results which flow from the novel structure of the present invention: The L-shaped vertical support member provides a stable support for tall display items, and a flat surface for easy sliding against the base during adjustment. The L-shaped vertical support members coated with rust-resistant material allows flat display items to be placed in the support stand on the ground for outdoor occasions, without concern about rust damage to the device due to dampness of the ground or inclement weather.

The Rejection of Claims 19-27 and 29-32 on Smith due to Obviousness is Overcome.

This section of the OA first refers to slots in vertical support members, which specifically relates to Claims 19, 23, 24, 25, 26, now rewritten as new claims 47, 51, 52, 53, and 54. Smith's invention is a vise for gripping doors while cutting mortises and installing hinges, while the present invention is a stand for supporting display items. Applicant submits that it would not have been obvious to one of ordinary skill in the art at the time the invention was made to have included slots in both vertical support members of the prior art reference, because doors are made in several standard thicknesses, which are more than adequately accommodated by the two adjusting screws and two open-ended slots in the single non-fixed D-shaped vertical support member of Smith's device. Putting additional slots and adjusting screws in the second vertical support would serve no useful purpose, and would only add manufacturing cost to the device. Therefore, there would be no motivating force which would impel one skilled in the art to do what the applicants have done: that is to put slots on both vertical supports. Accordingly, applicants submit that the rewritten claims now comply with 35 USC §103 (a), and therefore request withdrawal of this objection.

The last OA's second assertion of obviousness on Smith relates to coating the flat base and support members of Smith's invention with a rust resistant plating material (re: claims 22, 32, 36 and 46, now rewritten as claims 50, 60, 64 and 74). The prior-art reference describes Smith's invention as an aid to carpenters working on unfinished doors or sashes. Carpenters normally work on unfinished wood in a shop or inside a building in order to protect the work from the elements prior to painting, and therefore, Applicant submits that because the device would normally be used indoors, it would not have been obvious to one of ordinary skill in the art at the time of the invention to coat Smith's invention with a rust resistant plating material which would serve no useful purpose, and would only increase the cost of manufacture. Therefore, there would be no motivating force which would impel one skilled in the art to do what the applicants have done, which is coating the flat base and support members of the present invention with a rust resistant plating material. Accordingly, applicants submit that the rewritten claims now comply with 35 USC §103 (a), and therefore request withdrawal of this objection.

Additional Arguments Which Overcome The Rejection of Claims 19-27 and 29-32 on Smith

Applicants submit that it would not be obvious to one of ordinary skill in the art at the time of the invention was made to modify Smith to meet the claims of the present invention for the following reasons:

- a. The examiner has not presented a convincing line of reasoning as to why the claimed subject matter as a whole, including its differences over the prior art, would have been obvious.
- b. Applicant's invention solves a different problem than the reference, and such different problem is recited in the claims. *In re Wright*, 6 USPQ 2d 1959 (1988)
- c. This invention utilizes a new principle of operation, namely using the upright supports or jaws to passively hold an item in position, while all other prior art applies force through the uprights and directly to the held item through clamping, wedging, leverage, or vise action. The present invention uses downward pressure of a screw thread to hold the uprights in position, not to apply force to the held object. Applicant has blazed a trail, rather than following one.
- d. The invention solves a long-felt, long existing, but unsolved need.
- e. If the invention were in fact obvious, those skilled in the art would have surely implemented it by now. To wit: Smith was Patented on June 4, 1929. That is—the fact that those skilled in the art have not implemented the invention, despite its great advantages, indicates that it is not obvious.

Accordingly, applicants submit that the rewritten claims now comply with 35 USC §103 (a), and therefore request withdrawal of this objection.

The Rejection of Claims 33-41 and 43-46 under 35 U.S.C. 103(a) on Smith and Morse is Overcome.

Applicants submit that it would not be obvious to one of ordinary skill in the art at the time of the invention was made to combine Smith and Morse, for the following reasons:

- a. Each reference is complete and functional in itself, so there would be no reason to use parts from or add or substitute parts to any reference. Smith is a device for holding doors while mortising them; Morse is a device for moving or hanging doors.

- b. If combined, the references would provide an inoperative combination. A carpenter would not want a door gripping vise to move while he was working on a door. Supporting this concept, Smith teaches serrated feet on the base of his device to grip the floor surface firmly.
- c. The references take mutually exclusive paths and reach different solutions to a similar problem. Smith uses the weight of the door to hold it in the vise; Morse uses a clamp. Since they teach away from each other, it would not be logical to combine them.
- d. Most significantly, even if combined, the references would not meet the claims.

The Objection to Claim 28 under USC 103(a) on Smith and Helfman is Overcome.

Applicants submit that it would not be obvious to one of ordinary skill in the art at the time of the invention was made to combine Smith and Helfman, for the following reasons:

- A. By attempting to describe Helfman's wing nut as a bi-spoked manual adjusting knob, and by attempting to describe Helfman's bolt as a threaded guide pin, the Examiner has made a strained interpretation of the reference that could only be made by hindsight.
- B. The reference does not teach what the examiner relies upon it teaching: Helfman does not show an adjusting knob (either bi-spoked or tri-spoked), nor does Helfman show a fixed threaded guide pin.
- C. Each reference is complete and functional in itself, so there would be no reason to use parts from or add or substitute parts to any reference. Smith is a device for holding doors while mortising them; Helfman is a bracket for holding a planter on a wall or divider.
- D. If combined, the references would provide an inoperative combination. The actual fastening means claimed by Helfman being a wing nut and bolt: if a wing nut were used on Smith's invention, it would bind against the surface of the vertical support, and once tightened, it would be difficult to loosen without tools. Furthermore, a loose bolt inserted from beneath the stand would tend to spin when tightened by hand, and would likely have to be tightened by holding with a screwdriver from below while turning the wingnut from above. Furthermore, the wingnut which replaces Smith's inner screw

located beneath the D-shaped vertical bracket would be extremely difficult to adjust, being partially blocked by the D-shaped bracket. Alternatively, if we take the OA's strained interpretation of a knob being equivalent to a wingnut, then Smith's D-shaped bracket would have to be completely redesigned to allow clearance for the two knobs, and such required modifications are not taught in the prior art. The tri-spoked adjusting knobs would add significant unnecessary cost to Smith's invention, in view of how seldom a door-gripping vise would be adjusted, and Applicants submit that a person of ordinary skill in the art at the time of the invention would not have been motivated to modify Smith in view of the Examiner's strained interpretation of Helfman.

- E. The references are nonanalogous art: Smith is a device designed to hold doors while being mortised, while Helfman is a planter bracket.
- F. Most significantly, even if combined, the references would not meet the claims.

Conclusion

For all of the above reasons, applicants submit that the specification and claims are now in proper form, and that the claims all define patentably over the prior art. Therefore they submit that this application is now in condition for allowance, which action they respectfully solicit.

Conditional Request for Constructive Assistance

Applicants have amended the specification and claims of this application so that they are proper, definite and define novel structure which is also unobvious. If, for any reason this application is not believed to be in full condition for allowance, applicants respectfully request the constructive assistance and suggestions of the Examiner pursuant to M.P.E.P § 706.03(d) and § 707.07(j) in order that the undersigned can place this application in allowable condition as soon as possible and without the need for further proceedings

Very respectfully,

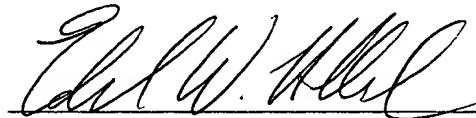
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Date 6/27/00



Edward W. Holland, Applicant